



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

December 1, 1958

Honorable Robert S. Calvert
Comptroller of Public Accounts
Capitol Station
Austin, Texas

Opinion No. WW-528

Re: Are the institutions under the Board for Texas State Hospitals and Special Schools required to deposit all receipts collected under Article 3196a in the State Treasury instead of depositing the receipts into a local bank and later clearing the receipts into the State Treasury?

Dear Mr. Calvert:

In your letter of June 19, 1958, you requested our opinion concerning collections from non-indigent patients by the Board for Texas State Hospitals and Special Schools. You ask two questions which we shall answer in the order they were presented.

"1. Are the institutions under the Board for Hospitals and Special Schools required to deposit all receipts collected under Article 3196a in the State Treasury instead of depositing the receipts into a local bank and later clearing the receipts into the State Treasury?" (Emphasis added).

Your request indicated that the funds involved were pre-paid reimbursement expenses collected under Article 3196a, Vernon's Civil Statutes, which are currently being handled by the various institutions in a revolving fund account carried on deposit at local banks. It seems that all collections from paying patients, including pre-paid expenses, are so deposited, and at the end of a certain period the total charges (i.e., expenses of these same patients) are charged against this account. The amount so charged is then sent to the State Treasury, representing expenses earned by the State.

The funds in question are collected under Article 3196a, Vernon's Civil Statutes, which reads in part as follows:

"Section 1. Patients admitted to State hospitals and State psychopathic hospitals shall be of two classes, to wit:

"Indigent patients;

"Non-indigent patients;

"Indigent patients are those who possess no property of any kind nor have anyone legally responsible for their support, and who are unable to reimburse the State. This class shall be supported at the expense of the State.

"Non-indigent patients are those who possess some property out of which the State may be reimbursed, or who have someone legally liable for their support. This class shall be kept and maintained at the expense of the State, as in the first instance, but in such cases the State shall have the right to be reimbursed for the support, maintenance, and treatment of such patients."

This Article provides for reimbursement of expenses incurred by non-indigent patients. When such reimbursements are made to eleemosynary institutions, the money so collected, since it belongs to the institution or State, is to be handled in accordance with Article 3179, Vernon's Civil Statutes, which provides as follows:

"All funds of every character received by or belonging to the institutions, other than money appropriated for their support from time to time by the Legislature, shall as soon as received, be paid over to the State Treasurer by the Board, superintendent or other person receiving them. The Treasurer shall place such sums to the credit of the general revenue fund." (Emphasis added).

Such Article is a general statute relating to funds received by or belonging to the institution in question.

In the correspondence between the Comptroller and the Board for Texas State Hospitals and Special Schools attached to your opinion request, the Board raised a question in defense of their using a special bank account for funds collected as pre-paid reimbursement expenses. We quote from the Board's letter to the Comptroller dated June 6, 1958:

"In light of the provisions of Article 3196a, it is our opinion that funds received by the institution which have not been earned is not 'public money' as that term is used in Articles 87 and 98 of Vernon's Penal Code."

Article 4388, Vernon's Civil Statutes, reads in part as follows:

"Art. 4388. DAILY STATEMENT FROM DEPARTMENTS

"The State Treasurer shall receive daily from the head of each Department, each of whom is specifically charged with the duty of making same daily, a detailed list of all persons remitting money the status of which is undetermined or which is awaiting the time when it can finally be taken into the Treasury, together with the actual remittances which the Treasurer shall cash and place in his vaults or in legally authorized depository banks, if the necessity arises. The report from the General Land Office shall include all money for interest, principal and the leases of school, university, asylum and other lands. . . . As soon as the status of money so placed with the Treasurer on a deposit receipt is determined, it shall be transferred from the suspense account by placing the portion of it belonging to the State in the Treasury by the issuance of a deposit warrant, and the part found not to belong to the State shall be refunded. . . ."

In Attorney General's Opinion O-945, January 15, 1940, construing Article 4388, Vernon's Civil Statutes, the following language appears:

". . . The purpose of the Suspense Statutes is to provide a method whereby money may be paid to the State which will not be paid into the State Treasury until it is finally determined to whom the money belongs, or until a time when the same may be finally paid into the State Treasury. The Suspense Fund serves as a sort of a depository. . . ."

Thus, the Legislature manifests its intent that all funds other than those specifically excepted by law be paid over to the State Treasury. In this way all funds received by any institution here under consideration pursuant to Article

3196a (for maintenance, care and treatment of patients) are governed by Article 3179, Vernon's Civil Statutes, which requires that such funds "shall as soon as received, be paid over to the State Treasurer by the Board, superintendent, or other person receiving them." Where the status of any such funds is undetermined as to ownership, Article 4388, Vernon's Civil Statutes, requires that:

"The State Treasurer shall receive daily from the head of each Department, each of whom is specifically charged with the duty of making same daily, a detailed list of all persons remitting money the status of which is undetermined or which is awaiting the time when it can finally be taken into the Treasury, . . ." (Emphasis added).

You are therefore advised that the answer to your first question, namely, whether the Board for Texas State Hospitals and Special Schools is required to deposit all receipts collected under Article 3196a in the State Treasury, is in the affirmative.

Your second question was stated as follows:

"If you answer question one in the affirmative, then answer question two.

"2. Has there been an Attorney General's Opinion written overruling Attorney General's Opinion dated September 14, 1931?"

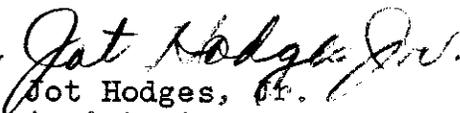
We find no opinion that has overruled the opinion dated September 14, 1931.

SUMMARY

The institutions under the Board for Texas State Hospitals and Special Schools are required to deposit all receipts collected under Article 3196a into the State Treasury.

Respectfully submitted,

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By 
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Assistant

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APPROVED:

OPINION COMMITTEE

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Wallace Finfrock
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REVIEWED FOR THE ATTORNEY GENERAL

BY: W. V. Geppert